HON'BLE SMT. JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION Nos.7127 of 2022 and 10240 OF 2022

COMMON ORDER:

These two Criminal Petitions are filed by the petitioners/ accused Nos.1 and 2 respectively to quash the proceedings against them in C.C. No. 1450 of 2020 on the file of the learned II Additional Judicial Magistrate of First Class, Rajamahendravaram, of the offences punishable under Sections 354-A, 509 and 506 read with Section 34 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC').

2. The case of the petitioners is that the petitioners and respondent No.2/ defacto complainant are practicing advocates at Rajamahendravaram, professional differences arose between them in connection with the handling of cases and the engagement of an advocate from Visakhapatnam to attend to matters at Rajamahendravaram. Further, the complaint is a consequence of professional rivalry and that the allegations against them are vague, general and unsupported by reliable material, statements recorded during investigation, including those referring to an altercation between the parties, do not disclose the commission of the offences alleged.

3. The prosecution case is that the respondent No.2 is an advocate and that the petitioners, who are also advocates, developed professional jealousy towards her, they made indecent comments about her and attempted to damage her reputation before other advocates, on 05.10.2019, after visiting a client at the Central Prison, while the respondent No.2 was going back, the petitioners approached her near Rambha-Urvasi Theatre and demanded that she has to spend a night with them to satisfy their sexual desires and basing on her report, a case in Crime No. 466 of 2019 was registered and after investigation, the investigating officer laid charge sheet and the case was taken on file as C.C. No. 1450 of 2020.

4. Learned counsel for the petitioners would argue that the parties are professional colleagues, an altercation took place out of their professional differences and the allegations about indecent comments, harassment and threats are not supported by specific particulars or independent material, statements of the staff of Central Prison and the statements of the other witnesses, refer to an altercation between the parties rather than corroborating the alleged demand for sexual favours. Further, the essential ingredients of the offences are not made out and that continuing the prosecution would amount to an abuse of process.

5. Learned Assistant Public Prosecutor opposes the petition and submits that the complaint and the statements recorded during investigation disclose a prima facie case, the allegation of a demand for sexual favours is serious and that the truth of the allegation should be tested during trial. No representation on behalf of respondent No.2.

6. The point for consideration is whether the allegations in the complaint, read with the charge sheet and the other material collected during investigation, disclose the essential ingredients of the offences punishable under Sections 354-A, 509 and 506 read with Section 34 IPC so as to justify continuation of the proceedings against the petitioners.

7. As seen from the record, basing on the report of respondent No.2, a case in Crime No. 466 of 2019 was registered and after investigation, the investigating officer laid charge sheet of the offences stated supra, the petitioners as well as respondent No.2 are practicing advocates at Rajamahendravaram, there are professional disputes among them and on the date of incident also an altercation took place among them at Central Prison.

8. The power to quash criminal proceedings is to be exercised sparingly. At this stage, this Court ordinarily does not decide disputed facts or assess the

credibility of witnesses as if conducting a trial, however, where the allegations, even if accepted at face value, do not disclose the ingredients of an offence, or where the uncontroverted material does not make out a case and continuation of the prosecution would amount to abuse of process, the Court may exercise its inherent jurisdiction.

9. Section 354-A IPC says about a demand or request for sexual favours and the making of sexually coloured remarks. Physical contact is not essential to an allegation under Section 354-A(1)(ii). Thus, if a specific and legally sufficient allegation of a demand for sexual favours is supported by the prosecution material, the absence of physical contact would not by itself justify quashing. The complaint and charge sheet attribute the alleged demand to both petitioners, but the remaining material, as described in the record placed before this Court, is general in nature. The statements of the other witnesses refer to an altercation between the parties. More particularly, statements of LWs.5 and 6/ chief warden and warden, clearly reveal that on 05.10.2019, petitioners and respondent No.2 altercated with each other in respect of their clients, in the jail premises itself and then, they send them out. The statements of the witnesses relied upon by the petitioners do not appear to furnish independent particulars supporting the alleged demand for sexual favours or to explain the specific role of each petitioner in the alleged act. The charge sheet also refers broadly to professional jealousy, indecent comments and harassment, without clearly identifying the particular words, acts, occasions or circumstances by which those allegations are said to have occurred.

10. Section 509 IPC applies where a person, intending to insult the modesty of a woman, utters a word, makes a sound or gesture, exhibits an object intending that it be seen by her, or intrudes upon her privacy. The material referred to in the charge sheet contains a general assertion that indecent comments were made and that the second respondent’s character was maligned before

colleagues. The specific words, gestures or acts constituting the alleged insult are not set out with sufficient clarity in the material placed before this Court. A general allegation of damage to reputation, without facts showing the conduct contemplated by Section 509 and the requisite intention, is not by itself enough to sustain the charge.

11. Section 506 IPC, read with Section 503 IPC, requires a threat of injury to person, reputation or property, made with the intention of causing alarm or compelling a person to do or omit an act which that person is not legally bound to do or omit. The allegations that the petitioners harassed and threatened the respondent No.2 do not specify the nature of the threat, the injury threatened, or the circumstances showing an intention to cause alarm. The prosecution material, as placed before this Court, does not supply the missing particulars. Consequently, the essential ingredients of criminal intimidation are not disclosed merely by the use of the words ‘harassed’ or ‘threatened’.

12. Section 34 IPC does not create an independent offence. It provides for joint liability where a criminal act is done by several persons in furtherance of their common intention. There must be material disclosing the underlying offence as well as a basis for attributing the criminal act to the accused in furtherance of a shared intention. The mere fact that the petitioners are colleagues or are alleged to have been present together cannot, without supporting facts, establish common intention. Section 34 cannot cure the absence of the essential ingredients of the substantive offences.

13. The fact that the parties are advocates and that professional differences existed would not, by itself, justify quashing a case alleging sexual harassment. Nevertheless, the professional context is relevant when considered alongside the nature of the allegations and the investigation material. The record indicates a dispute between professional colleagues and the witnesses are stated to have referred to an altercation between them. Added to it, petitioners and respondent

No.2 altercated with each other in the presence of the witnesses i.e., LWs.5 and 6/ chief warden and warden in the Jail premises itself. The material does not adequately distinguish that altercation from the alleged criminal acts or provide material particulars supporting the more serious allegations. This Court is conscious that a complainant's statement may itself constitute evidence and that corroboration is not invariably a legal requirement. The conclusion in this case rests on the overall absence of sufficient factual particulars in the prosecution record, not merely on the absence of independent corroboration.

14. There can be no dispute with the settled principle that the jurisdiction under Section 482 of the Code of Criminal Procedure is to be exercised sparingly and with circumspection. At the same time, this Court is required to examine the allegations and the material collected during investigation to ascertain whether continuation of the proceedings would amount to an abuse of the process of law. In ***Mahmood Ali v. State of Uttar Pradesh***[1], the Hon'ble Supreme Court reiterated that, while considering a petition for quashing, the Court may examine the attending circumstances emerging from the record and is not required to confine itself mechanically to the recitals in the First Information Report alone.

15. The principles laid down in ***State of Haryana and Others v. Bhajan Lal and Others***[2] also indicate the recognised categories in which the inherent power may be exercised, including cases where the allegations, even if taken at face value, do not constitute an offence; where the uncontroverted allegations and material collected do not disclose the commission of an offence; or where continuation of the proceedings would otherwise result in an abuse of the process of the Court. However, the power is not intended to conduct a meticulous appreciation of the evidence or to determine the truthfulness of disputed factual assertions at the stage of considering a petition for quashing.

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[1] 2023 INSC 681
[2] 1992 Supp 1 SCC 335

16. In the present case, the broad allegations of professional jealousy, indecent comments and threats are not supported by adequate particulars. This Court has also considered that the complaint arose in the setting of an existing professional dispute and that the interim order was granted at the inception of the petition itself. The record clearly reveals that all the allegations made in the complaint, even if taken at face value and accepted, constitute a prima facie case against the petitioner along with the other accused. Applying the principles in ***Bhajan Lal*** (supra), this Court is of the considered view that continuation of the proceedings is nothing but abuse of process of law.

17. i) **Crl.P. No.7121 of 2022:**

In the result, this Criminal Petition is allowed, quashing the proceedings against petitioner/ accused No.1 in C.C. No. 1450 of 2020 on the file of the learned II Additional Judicial Magistrate of First Class, Rajamahendravaram, for the offences punishable under Sections 354-A, 509 and 506 read with Section 34 IPC.

ii) **Crl.P. No.10240 of 2022:**

In the result, this Criminal Petition is allowed, quashing the proceedings against petitioner/ accused No.2 in C.C. No. 1450 of 2020 on the file of the learned II Additional Judicial Magistrate of First Class, Rajamahendravaram, for the offences punishable under Sections 354-A, 509 and 506 read with Section 34 IPC.

As a sequel thereto, pending miscellaneous petitions, if any, shall stand closed.

SUNITHA GANDHAM, J

Date:03.11.2026
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HON'BLE SMT. JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION Nos.7127 of 2022 and 10240 OF 2022

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